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a planter directly attached to the reservoir and suspended from at least one side of the reservoir along the upper rim thereof and extending outwardly therefrom, the planter holding flowers or plants and for receiving a portion of the quantity of water being discharged from the water discharge device to water the flowers or plants.

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Please add the following new claims:

23. The fountain of claim 16 wherein the pump is positioned on the bottom of the reservoir.
24. The fountain of claim 5 wherein the second planter, the third planter and the side planter are interconnected with one another.
25. The fountain of claim 23 wherein the second planter, the third planter and the side planter wrap about the at least one side wall of the first planter in a descending fashion along the predetermined height of the first planter.
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#### **REMARKS**

Claims 1-3, 5-8 and 16-20 were rejected under 35 U.S.C. 102 (b) as being anticipated by Lee (US 5, 440, 836). As amended and presented, the claims are believed to distinguish structurally over the art of record, including Lee, and to be unobvious over the art, whether the art is considered singly or in combination.

As Applicant's specification sets forth, Applicant has devised a unique and novel low-cost fountain structure which utilizes conventional and commercially available planters in a way and construction which conceals the common nature of the planters. As

the Examiner points out, Lee's device "...comprises a pump 62, located at the bottom of the reservoir, for pumping the quality of water within the planter, and sprinkler 40 for discharging the quantity of water. First 28 and second 58 planters are directly attached to and suspended from an exterior surface of the reservoir at different height locations, said planters are also adapted to catch a portion of the discharged water." The Lee device appears to be a commercial hydroponic device for plant cultivation. The Examiner's interpretation of Lee is respectfully suggested to be untenable in view of the present claim language in comparison to Lee's structure. Lee uses a series of closed top devices stacked on top of one another. The individual sections are interconnected by drain holes so that the "culture fluid or solution" (Column 2, ln. 47) may be circulated. Applicant's purpose, structure and result are different. Applicant's planter reservoir is open topped. Applicant's claims now require that the additional planters be attached along at least one side wall of the planter which serves as the reservoir. This enables applicant's device to provide a low-cost fountain structure in which the components forming the fountain structure are concealed both by the fountain's unique combination of elements, and by the plants associated with the fountain. Lee nowhere shows, describes or even vaguely intimates how the additional planters can be attached to the planter which serves as the reservoir in the manner set out in Applicant's claims. That is to say, Applicant's additional planters are arranged horizontally, so that the planters conceal the nature of the construction. Lee, neither alone or in combination, shows similar structure or gives Applicant's result.

For the reasons of the claims as amended are believed to distinguish structurally over the art of record, and to be unobvious from that art, whether the art is considered

singly or in combination, reexamination of the claims, allowance of the claims and passage of the case to issue are respectfully requested.

Respectfully submitted,

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Gunn

GROUP ART UNIT: 3728

SERIAL NO.: 09/668,780

EXAMINER: Susan C. Alimenti

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FOR: FOUNTAIN STRUCTURE

St. Louis, Missouri  
April 28, 2003

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CLAIMS WITH MARKED CORRECTIONS

1. (Thrice Amended) A fountain comprising:

a first planter defining a water reservoir, the first planter including a bottom and at least one surrounding side wall having a predetermined height and an open top to define a hollow interior for storing a quantity of water;

[a water reservoir comprising a bottom and surrounding sides and an open top defining a hollow interior for storing a quantity of water;] [

a pump for pumping the quantity of water within the first planter;  
a water discharge device disposed within the reservoir and connected to the pump for discharging the quantity of water; [and]

a second planter directly attached to, and suspended from and extending outwardly from the at least one surrounding side wall of the first planter,  
the second planter adapted to catch a portion of the water discharged out of the

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reservoir via the water discharge device; and  
a third planter directly attached to, suspended from and extending  
outwardly from the at least one surrounding side wall of the first planter, the third  
planter being positioned at a height location along the predetermined height of the  
at least one surrounding side wall different from the second planter.

[a planter directly attached to and suspended from an exterior surface  
of the surrounding sides of the reservoir, the planter adapted to catch a portion of the  
water discharged out of the reservoir via the water discharge device.]

4. (Twice Amended) The fountain of claim 1 [3] further including at least one side planter  
extending between the second and third [first and second] planters.

5. (Twice Amended) The fountain of claim 4 [1] wherein the pump is positioned along the  
bottom of the first planter [reservoir].

16. (Thrice Amended) A fountain comprising:

a reservoir having sides, a bottom and an open top defined by an  
upper rim and an interior for storing a quantity of water;  
a pump for pumping the quantity of water within the reservoir;  
a water discharge device connected to the pump for discharging the  
quantity of water; and

a planter directly attached to the reservoir and suspended from at  
least one side of [an exterior surface of] the reservoir along the upper rim thereof  
and extending outwardly therefrom [the planter being wider than the reservoir], the  
planter holding flowers or plants and for receiving a portion of the quantity of  
water being discharged from the water discharge device to water the flowers or

plants.